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Report of the Special Rapporteur on the right to food, Olivier De Schutter

Addendum

Mission to Malawi*

Summary

The present report, submitted pursuant to Human Rights Council resolution 22/9, contains the findings of the Special Rapporteur on the right to food on his visit to Malawi from 12 to 22 July 2013. The Special Rapporteur outlines the state of food and nutrition insecurity in the country (sect. III), characterized by chronic malnutrition among half of children under the age of 5; significant disparities between regions and urban and rural areas; and recurrent need for the provision of food aid in response to acute food insecurity during the lean season. He examines the legal, institutional and policy framework for the realization of the right to food (sect. IV), noting the need for greater accuracy of national surveys of poverty and food insecurity. The Special Rapporteur assesses the country's main agriculture support programme, the Farm Input Subsidy Programme, advising that it is in need of reform and that policies on agricultural development should be informed by five critical transformations (sect. V). He then examines difficulties faced by specific groups in gaining access to adequate food, related to workers' access to a living wage; smallholders' access to land, security of tenure, and markets; the limited reach of social protection programmes, including school feeding programmes; specific impediments faced by women; and inadequate provision of food in prisons (sect. VI). With regard to the commitment of Malawi to make maximum use of available resources for the realization of the right to food, the Special Rapporteur highlights the need to address illicit financial outflows and revenue losses from tax concessions granted to large companies (sect. VII). Finally, the Special Rapporteur encourages the adoption of a national food and nutrition framework law (sect. VIII) and lists key recommendations for the Government (sect. IX).

* The summary of the present report is circulated in all official languages. The report itself, contained in the annex to the summary, is circulated in the language of submission only.

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Annex

[English only]

Report of the Special Rapporteur on the right to food on his mission to Malawi (12–22 July 2013)

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I. Introduction

1. The Special Rapporteur on the right to food, Olivier De Schutter, conducted a visit to Malawi from 12 to 22 July 2013 at the invitation of the Government. During his visit, he met with senior government officials from the Office of the President and Cabinet; the Ministry of Foreign Affairs; the Ministry of Agriculture and Food Security; the National Food Reserve Agency; the Ministry of Lands, Housing and Urban Development; the Ministry of Justice and Constitutional Affairs; the Ministry of Home Affairs and Internal Security; the Malawi Prison Service; the Ministry of Industry and Trade; the Ministry of Labour and Vocational Training; the Ministry of Local Government and Rural Development; the Ministry of Gender, Children and Community Development; the Ministry of Economic Planning and Development; the Malawi Vulnerability Assessment Committee; the Ministry of Health; and the Ministry of Finance. The Special Rapporteur also met with members of the National Assembly, the Malawi Human Rights Commission and the United Nations country team, and with representatives of international donors and development cooperation agencies.

2. The Special Rapporteur convened five round-table discussions in Lilongwe and Zomba with representatives of non-governmental organizations, trade unions, farmers associations and academics. He visited the central and southern regions, meeting with local officials and communities in the districts of Dedza, Salima, Mulanje, Thyolo and Zomba, including tea estate workers in the village of Bwaila in Traditional Authority Mchilamwela, villagers facing displacement from land adjoining a sugar cane plantation in Mtakataka, tenant workers on a tobacco farm in Changoma, and staff of a nutrition rehabilitation unit developing a community garden project at the Mulanje Mission Hospital; and farmers involved in agroecological projects in Ekwendeni, Mzimba District, and in Lodi, Dedza District. The Special Rapporteur also visited Maula Prison in Lilongwe, where he met with prisoners and with representatives of the prison administration.

3. The Special Rapporteur is grateful to the Government for facilitating his visit and for the open and frank spirit in which dialogues were conducted. He expresses his thanks and appreciation to the wide range of people and local communities he was able to meet with, as well to the United Nations country team and the United Nations Resident Coordinator in Malawi for the excellent support provided.

4. The visit took place at a time when the country is making important choices for its near and long-term future. On 8 June 2013, President Joyce Banda announced at the "Nutrition for Growth" summit in London, that Malawi had joined the New Alliance for Food Security and Nutrition; the terms of its agreement are set out in a country cooperation framework that includes a series of policy commitments engaging the country for the years to come. The 2014 elections and the fiftieth anniversary of independence ("Malawi at 50") also provide opportunities for a national dialogue on a renewed comprehensive vision for the country.

II. General context

5. Malawi has one of the lowest per capita incomes in the world (US$ 340 per capita in 2011). With a population of 14.8 million (2012 official estimate), it is one of the world's most densely populated countries (139 habitants per square kilometre) and it has one of the highest population growth rates in the region (2.6 per cent per year). It has been designated by the United Nations Population Fund (UNFPA) as one of the 15 "population hotspots" across the globe: its population is expected to triple to over 40 million by 2040.

6. In part as the result of strong demographic growth, the country's natural resources are under enormous pressure. Land degradation (aggravated depletion of soil fertility) is the most worrying sign of the ecological crisis in Malawi. Forest cover is decreasing at the alarming rate of 2.8 per cent per year. Unsustainable natural resources management costs Malawi an estimated US$ 191 million annually, or 5.3 per cent of gross domestic product (GDP).[1]

7. Malawi is prone to natural disasters, in particular floods, droughts and dry spells. Between 1991 and 2005, 10 out of 14 growing seasons were affected by large-scale climatic events each affecting more than 100,000 people, and as many as 5.1 million in 2005. Droughts and floods push, on average, approximately 265,000 more people into poverty each year and cause an annual average loss of 1.7 per cent of GDP.[2]

8. The current Government is implementing a set of orthodox economic and financial policies aimed at achieving macroeconomic stability with the support of an International Monetary Fund (IMF) three-year Extended Credit Facility arrangement worth US$ 157 million, approved in July 2012. Key adjustment measures have included the May 2012 devaluation of the kwacha that increased the price of foreign exchange by approximately 50 per cent; the adoption of a floating exchange rate regime; increases in the retail prices of petroleum products and further liberalization of those prices; and tightened monetary and fiscal policy. Real GDP growth is estimated to have fallen from 4.3 per cent in 2011 to 1.9 per cent in 2012, reflecting contractions in agriculture and manufacturing.[3]

III. Food and nutrition insecurity

9. Malawi is among the poorest countries in the world, ranking 170th of 186 surveyed countries in the 2013 Human Development Index. The more than half of the population who live below the poverty line have seen little or no improvement in their situation over the past decade. Despite growth averaging 7 per cent in the period 2006–2010, overall poverty has only slightly declined (from 52.5 per cent in 2004/05 to 50.7 per cent in 2010/11) and for the more than 80 per cent of the population living in rural areas, it has in fact worsened. One quarter of Malawians are considered "ultra poor", with an income below the estimated cost of food providing the minimum daily recommended calorie intake.[4] Inequality has also worsened, with the country's Gini coefficient rising from 0.39 in 2004 to 0.45 in 2010.[5]

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[1] Malawi, United Nations Development Programme (UNDP) and United Nations Environment Programme (UNEP), *Economic Analysis of Sustainable Natural Resource Use in Malawi – Economic Study* (2011), p. ii.

[2] Karl Pauw et al., "The economic costs of extreme weather events: a hydro-meteorological CGE analysis for Malawi", *Environment and Development Economics*, vol. 16, No. 2 (2011).

[3] Malawi, Letter of Intent, Memorandum of Economic and Financial Policies, and Technical Memorandum of Understanding, 28 March 2013, addressed to the Managing Director of IMF, describing the policies that Malawi intends to implement in the context of its request for financial support from IMF. Available from www.imf.org/external/np/loi/2012/mwi/120512.pdf.

[4] Malawi, *Integrated Household Survey (IHS) 2010/2011*, p. 204. The poverty line is estimated on the basis of a food poverty line (estimated cost of the minimum standard for daily recommended calorie intake) combined with the estimated cost for basic non-food needs. The third Integrated Household Survey identifies as "poor" and "ultra poor" the population that has a total consumption below, respectively, MK 37,002 and MK 22,956 per year (approximately US$ 250 and $150 at 2011 exchange rates).

[5] Malawi, *IHS 2010/2011*, p. 218.

10. Levels of malnutrition are alarmingly high. About half of all children under the age of 5 show signs of chronic malnutrition. An estimated 48 per cent are too short for their age (stunted), 30.6 per cent weigh too little for their age (underweight) and 11.4 per cent weigh too little for their height (wasted).[6]

11. One third of the population is food insecure, with disrupted eating patterns and reduced food intake. The incidence of food insecurity is markedly higher in rural areas (34 per cent) compared to urban areas (23 per cent), among female-headed households (38 per cent) compared to male-headed households (31 per cent) and in the southern region of the country (36 per cent) compared to the northern (29.9 per cent) and central (29.5 per cent) regions. The disparity in levels of food insecurity among districts is particularly pronounced. In the Shire Valley districts of Nsanje and Chikhwawa, 78 and 75 per cent of the population, respectively, were considered food insecure, compared to 14 per cent in Machinga district.[7]

12. Acute food insecurity is a recurrent phenomenon during the lean season. The annual forecast of the Malawi Vulnerability Assessment Committee estimated that 1,461,940 people (9.5 per cent of the population) would not be able to meet their annual food requirement during 2013/14.[8] While this is an improvement compared to the previous year, the number of food insecure households is still more than double that in any of the five preceding years. Moreover, as 42 per cent of households spend more than 75 per cent of their income on food, even slight increases in the prices of food commodities compared to those used in the Committee's projections would further worsen this situation.

13. The strategic grain reserve managed by the National Food Reserve Agency provides a key instrument for the Government to reduce price volatility and cushion the impacts of price spikes. However, as the Malawi Vulnerability Assessment Committee announced that 57,346 metric tons (maize equivalent) in humanitarian food support to vulnerable households would be needed during the 2013/14 consumption period, the national grain reserves had been depleted, raising concerns about their management and the lack of allocation of funds to the Agency to allow the reserves to be replenished.

IV. Legal, institutional and policy framework

14. Article 30, paragraph 2, of the 1994 Constitution refers to access to food as part of the human right to development, and commits the State to "take all necessary measures for the realization of the right to development. Such measures shall include, amongst other things, equality of opportunity for all in their access to basic resources, education, health services, food, shelter, employment and infrastructure". In chapter III (Fundamental Principles) of the Constitution, article 13 (b) stipulates that "The State shall actively promote the welfare and development of the people of Malawi by progressively adopting and implementing policies and legislation aimed at achieving [a number of goals, including to] achieve adequate nutrition for all in order to promote good health and self-sufficiency". Moreover, as a State party to the International Covenant on Economic, Social and Cultural Rights, Malawi recognizes "the right of everyone to an adequate standard of living for himself and his family, including adequate food" and "the fundamental right of everyone to be free from hunger" (art. 11).

[6] Ibid., p. 183.

[7] Ibid., pp. 188–190.

[8] Malawi Vulnerability Assessment Committee, *National Food Security Forecast, April 2013 to March 2014*, Bulletin No. 9/13, vol. 1 (2013), second page. The Committee is comprised of government, intergovernmental, academic and non-profit member organizations.

15. Consistent with the status of the right to food in domestic law and with the international obligations of the country, Malawian courts have recognized the justiciability of economic, social and cultural rights, including the right to adequate food.[9] The national Food Security Policy of 2006 also explicitly reaffirms the human right to adequate food in its section 1.2.2.4, stating that "cognisant of the provisions for the protection of human rights and freedoms as enshrined in the Constitution of Malawi, the right to adequate food is fully accepted as a human right. The right for everyone to have access to safe and nutritious food shall be observed in accordance with the fundamental right of everyone to be free from hunger."

16. Various policy documents underline the commitment of Malawi to eradicate hunger and malnutrition. Malawi Vision 2020, launched in 1998, outlines the national long-term development perspective for Malawi. Its chapter 6 sets out the aspiration "for all members of all households to have access to adequate and safe food at all times of the year to meet their nutritional requirements". Malawi Vision 2020 has guided the formulation of a series of medium-term development strategies, the latest of which is the Malawi Growth and Development Strategy (MGDS) II, 2011-2016. MGDS II focuses on food security as one of its nine key priority areas and provides a guiding framework for national efforts to achieve food and nutrition security.

17. A wide range of other national policies and strategies of relevance to the right to food have been formulated in recent years, such as the National Nutrition Policy (2005); the National Nutritional Policy and Strategic Plan (2009); the National Nutrition Education and Communication Strategy for Preventing Child Stunting in Malawi, 2012–2017; the National School Health and Nutrition Strategic Plan, 2009–2018; and the National School Health and Nutrition Strategic Policy.[10] Moreover, the Agriculture Sector Wide Approach, adopted in 2010, is aimed at increasing agricultural productivity and improving nutrition at the household level, and is currently being complemented by a broader National Agricultural Policy, adopted in 2011.

Collecting and analysing data

18. As a State party to the International Covenant on Economic, Social and Cultural Rights, the Government of Malawi has committed to take appropriate steps, to the maximum of its available resources, to ensure the realization of the right to an adequate standard of living, including adequate food. A fundamental requirement for identifying "appropriate steps" is to have a system in place to collect and analyse data on the actual status of realization of the right to food. Such data collection and analysis must be carried out periodically in order to continuously monitor progress made, or the lack thereof, with a view to adjusting ineffective policies and programmes.

19. In Malawi, two main means of monitoring progress in improving food security are the Integrated Household Survey, carried out every five years, and the Welfare Monitoring Survey, carried out annually. However, there were considerable discrepancies between the assessments of food and nutrition security in the 2009 Welfare Monitoring Survey and the 2011 Integrated Household Survey (published in 2012). The former showed significant progress in reducing poverty and the number of people at risk of hunger. Overall levels of poverty were estimated to have decreased to 39 per cent, from 50 per cent in 2005, and poverty was being reduced both in rural and in urban areas. The Welfare Monitoring Survey

[9] See for example, the High Court of Malawi Lilongwe District Registry, constitutional case No 15 of 2007 (*Masangano* v. *Attorney General, Minister of Home Affairs and Internal Security, and Commissioner of Prisons*), ruling of 19 February 2009.

[10] The Policy was still being developed at the time the present report was submitted.

figures were used in a range of policy documents and reports, including MGDS II, the 2010 and 2011 reports on the Millennium Development Goals, and the core document submitted to the human rights treaty bodies in April 2012. For example, MGDS II stated that "Welfare Monitoring Survey reports indicate that the number of Malawians at risk of hunger has been decreasing over time due to [the Farm Input Subsidy Programme]".[11] Likewise, in the core document, the Government states that from this information it has been concluded that the Goal to eradicate extreme poverty and hunger is likely to be met (HRI/CORE/MWI/2012, para. 22).

20. These findings, however, were contradicted by the third Integrated Household Survey, which was published, with some delay, in August 2012. According to the Survey, the proportion of the population with below minimum food consumption (the ultra poor), had not decreased, but rather had increased from 22.3 per cent in 2005 to 24.5 per cent in 2011, while overall poverty in rural areas had increased from 55.9 per cent to 56.6 per cent.

21. The Special Rapporteur notes that the new data call for a reassessment of current policies aimed at reducing poverty and food insecurity. Moreover, it would be important to identify the reasons for the significant discrepancies to ensure greater accuracy of such surveys, which are essential to monitoring the progressive realization of the right to food.

V. Food availability and agricultural production

A. Investing in agriculture

22. The total area under cultivation in Malawi is between 2.2 million and 2.5 million hectares. More than 90 per cent is cultivated by small-scale farming households,[12] which number from 2.3 million to 2.8 million.[13] But the very small landholding sizes (the average cultivated area by household is estimated at 1.4 hectares, while 65 per cent of rural households cultivate up to 0.8 hectares),[14] and agrometeorological conditions that make the cultivation of most high value food or cash crops difficult or impossible in many areas of the country, have serious consequences for the food security of the population. These factors and past agricultural policies have led farmers to gradually depend on a single annual staple crop for the bulk of their food: maize. The cultivation of maize year after year on the same land has led to the erosion of soil nutrients. In addition, the pressure on land has gradually limited livestock ownership, so that most farming households do not have access to sufficient animal manure to maintain the fertility of their soil.

23. Against this background, it is to be welcomed that Malawi has placed agriculture and food security at the top of its political agenda. It is one of the few countries in Africa to have reached the target of allocating 10 per cent of the national budget to agriculture, set at the Maputo summit of the African Union in 2003.

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[11] Malawi, Malawi Growth and Development Strategy (MGDS) II, 2011–2016, p. 20. Available from www.imf.org/external/pubs/ft/scr/2012/cr12222.pdf.

[12] Malawi, *The National Agricultural Policy* (2011), para. 1.1.3.

[13] The National Statistical Office has estimated the number of farming households at 2.3 million, whereas the Ministry of Agriculture, Irrigation and Water Development estimated that the number was closer to 2.8 million. See B. Chinsinga, "The future of the Farm Input Subsidy Programme (FISP): a political economy investigation", discussion paper prepared for the Civil Society Agriculture Network (CISANET) (2012), p. 13.

[14] Malawi, *IHS 2010–2011*, p. 131.

Farm Input Subsidy Programme

24. By far the largest agriculture support programme is the Farm Input Subsidy Programme (FISP), initiated during the 2005/06 growing season. FISP is administered through vouchers or coupons that enable eligible households to purchase fixed quantities of fertilizer, seeds and storage pesticides at significantly reduced prices. It targets 1.5 million beneficiaries, who each receive inputs sufficient for approximately 0.33 hectares of land at recommended input application rates.

25. The programme has had significant positive impacts on maize production. Since the 2005/06 growing season, Malawi has been able to meet its national maize requirements, while in previous decades it depended upon foreign aid and commercial maize imports. FISP has been credited for contributing to low inflation, a higher degree of food self-sufficiency among rural households and an increase in the number of meals taken in a day within these households.[15] Still, massive rural food insecurity and poverty remain, and concerns are being raised as to whether FISP represents the best use of scarce resources to address hunger.

26. First, the targeting of the FISP programme is under scrutiny. FISP officially targets vulnerable resource-poor Malawians who own a piece of land and can make effective use of the subsidized inputs (the "productive poor"). However, assessments found that households headed by young females were less likely to receive complete input subsidy packets than households headed by older males; poor households were less likely than rich households to receive vouchers; and those with more education received more coupons than the recommended amount.[16]

27. Measures have been taken to improve targeting, including holding public village meetings to ensure greater transparency in the coupon allocation process; maintaining farm household registers to prevent "outsiders" from becoming beneficiaries; and communicating the targeting criteria through the FISP implementation guidelines, which stipulate that resource-poor vulnerable groups should be considered in the identification of beneficiaries, including households affected by HIV/AIDS, and child- or female-headed households. The impacts of these reforms remain to be assessed.

28. Second, the rising cost of fertilizer imports and its impact on the balance of payments of the country have cast doubt on the sustainability of the programme. The programme cost rose from MK 4,480 million (about US$ 36 million) in 2005/06 to MK 33,922 million (about US$ 234 million) in 2008/09, and decreased to MK 20,249 million (about US$ 140 million) in 2009/10.[17] While FISP accounts for one tenth of the total value of imports, the programme does not have a mechanism to recuperate programme cost or replenish the foreign currency reserves that it consumes. The programme is highly vulnerable to fuel- and fertilizer-price volatility.

29. A third concern relates to the question of opportunity costs. In 2006/07 and 2007/08, more than 8 per cent of the national budget was dedicated to FISP. The figure increased to 16.2 per cent in 2008/09 (representing 74 per cent of the budget for agriculture) due to skyrocketing fertilizer prices.[18] The Ministry of Agriculture and Food Security informed the Special Rapporteur that it had allocated 54.5 per cent of its 2012/13 budget to FISP

[15] Chinsinga, "The future of the Farm Input Subsidy Programme", p. 10.

[16] Christopher Chibwana and Monica Fisher, "The impacts of agricultural input subsidies in Malawi", International Food Policy Research Institute Policy Note 5 (2011), p. 1.

[17] Andrew Dorward and Ephraim Chirwa, "The Malawi agricultural input subsidy programme: 2005/06 to 2008/09", *International Journal of Agricultural Sustainability*, vol. 9, No. 1 (2011), p. 235.

[18] Ibid., pp. 237–238.

(approximately MK 60 billion out of a total budget of MK 110 billion), and significant human resources of the Ministry are dedicated to the programme. The priority given to FISP has led to a decline in spending on agricultural research, extension services, training, rural roads and infrastructure, and a delay in the implementation of the Green Belt Initiative. At the same time, a range of programmes may have higher development impacts than FISP, such as the Farm Income Diversification Programme, the Public Works Programme, the Agroforestry Food Security Programme, or the One Village One Product programme.

30. Fourth, inorganic fertilizers may be masking soil nutrient depletion, rather than correcting it. The continued loss of soil micronutrients puts into question the possibility of maintaining yield levels over the long term. Yields of both cereals and maize, which rose between 2005/06 and 2009, have reportedly levelled off since 2010. As a recent report points out, there is a need to systematically move towards developing organic exit strategies for FISP, as the increased use of inorganic fertilizer may have a negative impact on the soil's physical characteristics and its vulnerability to erosion, and temporarily hide the effects of bad land management.[19]

31. Fifth, while FISP has improved food security among small-scale farmers, including the most vulnerable among them, it does not serve as an effective agricultural development strategy for such farmers, who contribute 70 per cent of the agricultural GDP,[20] as it does not create any "development dynamic" allowing poor smallholders to move out of subsistence farming.

32. In the light of these concerns expressed about FISP, the Special Rapporteur advises the Government to review and reform the programme.

B. Five critical transformations

33. In reforming FISP and elaborating a vision for agricultural development, five critical transformations seem advisable.

34. First, agricultural diversification is required. Future efforts should recognize the links between agriculture, nutrition and health. Vision 2020 stated that in Malawi "diets are bulky and monotonous. Meals consist of *nsima* made from maize or cassava flour taken together with cooked vegetable dishes. The result is a high level of chronic under nutrition and micronutrient deficiencies" (para. 6.2.8.1). Despite some improvements since Vision 2020 was formulated in 1998, levels of child malnutrition remain unacceptably high in Malawi. Ensuring access to more balanced diets is crucial to address this problem. However, there is a need to link the important nutritional education programmes launched by the Government (coordinated by the Ministry of Health and the Office of the President and Cabinet) with initiatives to promote a more diversified agricultural food production (coordinated by the Ministry of Agriculture and Food Security).

35. In this regard, the Special Rapporteur was impressed by the initiatives started in nutrition rehabilitation units across the country, including at Ekwendeni Hospital in Mzimba District and at Mulanje Mission Hospital in Mulanje District, which have successfully combined treatment and nutrition education with programmes to assist communities to diversify the crops and legumes they grow in their gardens and plots of

[19] Malawi and UNDP, "Policy sector review for incorporating sustainable land management in the Shire river basin and development of an institutional framework for sustainable land management", final report (2013), p. 33.

[20] Malawi, *The National Agricultural Policy* (2011), para. 1.1.2.

land. The Government could study how such initiatives could be scaled up, including by integrating nutritional education into strengthened extension services for local communities. There would be considerable gains from diversification aimed at producing the food Malawians need for adequate diets. For instance, FISP could enhance the quantity and diversity of subsidized legume seeds distributed across the country, as well as fruit tree seeds and seedlings. In addition to their contribution to family nutrition and income, legumes build soil fertility and improve the efficiency of inorganic fertilizer use.

36. Second, there is a need for a "brown revolution" in the form of a concerted national effort to support farmers in improving structural soil fertility. By improving soil fertility, organic matter and water-holding capacity, Malawi could gradually reduce its dependency on imported fertilizers and become more resilient to dry spells. In this regard, successful home-grown organic soil fertilization technologies and practices should be promoted and scaled up. Examples include the Soils, Food and Healthy Communities project in Ekwendeni region (>8,000 farmers), the Malawi Farmer-to-Farmer Agroecology project in Dedza (>2,000 farmers), the Africa RISING programme, Total LandCare projects and the World Agroforestry Centre (ICRAF) AgroForestry Food Security Programme in Malawi (>180,000 farmers).

37. Third, a "blue revolution" is required to improve water conservation and scale up sustainable irrigation methods. Malawi plans to expand the area under irrigation through the Green Belt Initiative, from 90,000 hectares to 400,000 hectares.[21] However, only 36 per cent of the country's agricultural area is potentially irrigable with river/lake water. Other options are necessary to improve irrigation for those living in other areas.[22] Yet, very few efforts are under way, despite the fact that the establishment of rainwater harvesting systems is a focus action of MGDS II. Developing small farm ponds, tanks, contour ridges, check dams and stone bunds for harvesting and storing rainwater water, which could be included in public works programmes, would go a long way to increase infiltration and recharge groundwater levels.

38. Fourth, as anticipated in the Agriculture Sector Wide Approach, agricultural extension services should be significantly scaled up.[23] Their staff has been drastically reduced since the late 1990s (from about 3,000 to about 1,000 extension staff), with negative consequences for vulnerable farmers. In joining the New Alliance for Food Security and Nutrition, the Government also committed itself to strengthening extension services to support export growth clusters. This is promising. However, to effectively promote the right to adequate food, it would be critical to ensure that extension services reach the most vulnerable farmers and support the transformations outlined above.

39. Malawi could consider supporting innovative bottom-up models of horizontal extension. Initiatives such as farmers' research teams and agriculture and nutrition discussion groups not only facilitated the dissemination of agroecological practices to over 8,000 farmers in Ekwendeni, but also improved consideration of gender issues and "family cooperation" in agricultural change. Decentralized extension networks involving extension officers, farmers' organizations and scientists could be established and tasked to facilitate the identification, development and dissemination of the best agroecological practices, as well as the identification of obstacles and incentives. Such innovative modernization of extension services is vital, as the implementation of agroecological practices described in

[21] Malawi, MGDS II, p. 72.

[22] UNDP Malawi, "Agricultural diversification in Malawi: What does it mean? What does it take?", Policy Brief 1 (2013), p. 3.

[23] Malawi, Ministry of Agriculture and Food Security, *The Agriculture Sector Wide Approach (ASWAp): Malawi's Prioritised and Harmonised Agricultural Development Agenda* (2010), p. 46.

preceding sections requires ownership by local communities. Finally, the hiring and training of female extension workers (currently greatly underrepresented), as well as the integration of gender issues into extension activities, are vital. Any strategy that does not affirmatively reach out to women farmers will fail to achieve significant results (see A/HRC/22/50 and Corr.1, paras. 29–38).

40. Finally, there is a need to pace carefully the shift towards a greater diversification of the economy across sectors as well as the change within agriculture. Recent policy documents and discourse put an emphasis on agricultural diversification through large-scale commercial estates, in an export-led approach. However, such capital-intensive farming minimizes labour use. An expansion of this model therefore requires careful consideration, given the complex social and economic consequences, including for rural-urban migration. The scale, speed and timing of mechanization must be adapted to the scale, speed and timing of the creation of non-agricultural employment opportunities.[24] A priority for Malawi in the years to come is the creation of more employment opportunities, which may require the promotion of labour-intensive technologies and practices. The adoption of labour-saving technologies, although part of any long-term development strategy, must be gradual so as to avoid social disruptions.

41. The Special Rapporteur found that there was a general consensus on the five transformations and challenges outlined above. The cost of implementing the changes suggested above could be partly covered by savings in fertilizer imports and associated foreign exchange requirements, with "brown revolution" techniques being gradually disseminated and improving soil fertility; as well as by the strengthening of accountability mechanisms and anti-corruption measures within FISP, including in procurement.

42. If Malawi succeeds in designing an agricultural development policy integrating these elements at the same time as FISP is reformed, it could achieve lasting successes in combating hunger and malnutrition, and become a model for other countries affected by hunger and climate change.

VI. Food accessibility

A. Economic access to food via waged employment

43. The right to food is the right to access the means to produce food or the means to an income that enables the purchase of adequate food. Food accessibility is understood both as physical accessibility and as economic accessibility, requiring that net food buyers can afford adequate food that they purchase on the market.

44. The minimum wage in Malawi is currently fixed at MK 317 per day (about US$ 0.80), based upon the Employment Act (No. 6 of 2000). This is one of the lowest national minimum wages worldwide,[25] the consequence of several decades of policies designed to produce cheap labour for the emerging estate sector by depressing the price of labour, including the so-called maximum-wage policy enshrined in the 1971 Wage Restraint Policy. A well-informed expert compared Malawi to a "labour Utopia" for employers, with cheap labour and poor labour inspection, a situation witnessed by the Special Rapporteur, who met with female seasonal tea pickers earning MK 430 per day for eight hours of work, provided they collect 44 kilograms of tea leaves.

[24] UNDP Malawi, "Agricultural diversification", p. 2.

[25] International Labour Organization, Committee on Employment and Social Policy, 304th session, March 2009, "Update on minimum wage developments" (GB.304/ESP/3), p. 4.

45. The Government should take immediate steps to adjust the national minimum wage to a living wage, a wage that "provides an income allowing workers to support themselves and their families", as required under articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights.[26] Such a living wage should be assured for all waged workers, including casual/seasonal workers.

46. Moreover, the Special Rapporteur notes that there is a need to strengthen the labour inspectorate, which is currently weak and underresourced; ensure respect for the right to organize; and ensure that collective bargaining, which is respected in the sugar sector, is applied in other estate sectors, in particular tea cultivation.

Situation of tenant workers in the tobacco sector

47. An estimated 300,000 tobacco tenant families live in extremely precarious situations in Malawi, as witnessed by the Special Rapporteur. Their incomes depend on the quantity and quality of tobacco sold to their landlord in each harvest season. In some cases, they are left without any income once they reimburse loans covering their food requirements during the growing season. In many cases, their monthly allocation barely allows them to feed themselves. Another consequence of the low prices received for their product is the massive use of child labour: it is estimated that 78,000 child labourers are employed in picking tobacco leaves.[27]

48. A tenancy labour bill setting out basic rights of tobacco tenant workers was presented in 2010. The Special Rapporteur expresses the hope that this bill will be tabled in an upcoming sitting of Parliament.

B. Situation of smallholders

1. Security of tenure

49. Land is a critical source of livelihood for a majority of the Malawian population living in rural areas as smallholders, cultivating small land plots often of less than one hectare. Land is also becoming an increasingly scarce resource as a consequence of rapid population growth and government policy to develop large-scale estates.

50. Against this backdrop, a new land bill, in the form of 11 pieces of legislation, is now pending approval. In this regard, the Special Rapporteur would like to highlight the following areas where the land bill could strengthen protection of the right to food.

51. First, the reformed legal framework should provide for adequate protection against land grabbing in the context of agricultural investments, such as those foreseen under the Green Belt Initiative and the New Alliance for Food Security and Nutrition. One of the commitments of the Government under the latter framework is to release 200,000 hectares of land to investors, "after conducting a survey to identify idle land and crop suitability under both customary and leasehold [tenure]".[28] The Special Rapporteur welcomes in this regard the commitment under the New Alliance for Food Security and Nutrition cooperation framework to comply with the Voluntary Guidelines on the Responsible

[26] Committee on Economic, Social and Cultural Rights, general comment No. 18 (2005) on the right to work, para. 7. The Ethical Trading Initiative Base Code refers to a living wage as one that is "enough to meet basic needs and to provide some discretionary income" (art. 5.1).

[27] Plan Malawi, *Hard Work, Long Hours and Little Pay: Research with Children Working on Tobacco Farms in Malawi* (2009), p. 1.

[28] Country Cooperation Framework to Support the New Alliance for Food Security and Nutrition in Malawi (2013), p. 6.

Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, endorsed in May 2012 by the Committee on World Food Security. He notes that the Guidelines refer to equitable access to land and recommend the adoption of ceiling laws, considering the positive impacts of equitable access to land on food security. This should guide the future allocation of the estimated 2.4 million hectares of underutilized land in the country. He recommends that the surveys to identify available land be done using participatory means. In order to ensure adequate security of tenure for rural communities, the new legislative framework should include safeguards against excessive powers of traditional chiefs to agree to land acquisitions against the will of their communities.

52. The Special Rapporteur concludes from his meetings with government officials and communities facing displacement from their land that the current safeguards are inadequate. In assessing whether or not displacement can be justified, legislation should ensure that the impacts on affected communities are adequately assessed, that all potentially affected persons are fully consulted and, where displacement cannot be avoided, provided with fair compensation. Persons who are resettled should be compensated with land commensurate in quality, size and value, or better. In no circumstance should families be deprived of their sources of livelihood without alternative sources being created that are at least as satisfactory.

53. The new legislation should also pay adequate attention to the situation of women and their vulnerability to being disadvantaged in their access to land, as also discussed in the Special Rapporteur's report on women's rights and the right to food (A/HRC/22/50 and Corr.1).

54. Finally, the customary land bill should guarantee security of tenure also to those who may not get their land registered, for example because they lack resources and access to information about procedures.

2. Contract farming

55. Contract farming arrangements between small-scale farmers and agrifood companies are currently being tried in tobacco farming. Such arrangements could multiply as Malawi takes steps to promote large-scale commercial agricultural projects. The Country Cooperation Framework to Support the New Alliance for Food Security and Nutrition includes a policy commitment to fast track the Contract Farming Strategy initially prepared in 2009.

56. The Special Rapporteur encourages the Government to develop a legal framework to regulate the development of contract farming. In order to ensure that it complies with the requirements of the right to adequate food, such a framework should build on the set of conditions outlined earlier by the Special Rapporteur, including support for small-scale farmers in negotiations to ensure greater balance in bargaining positions, clear and transparent pricing mechanisms and ways of resolving disputes (A/66/262, paras. 25–32). Beyond contract farming, which seldom encourages farmers to climb up the value chain and move into the packaging, processing or marketing of their produce, other and more inclusive business models could be explored, such as joint ventures, farmer-controlled enterprises, or direct-to-consumer food marketing.

C. Social protection: reaching the ultra poor

57. There is a range of social support/protection schemes in Malawi. With the exception of FISP, the programmes all have limited geographical coverage. Moreover, international donors provide the major part of programme budgets. The programmes include emergency response to communities affected by shocks, in the form of food aid (in-kind or through

cash or voucher transfers); public works programmes (food or cash for work) targeted at households experiencing periodic food insecurity; targeted transfers (cash/productive assets) to assist households that are particularly vulnerable to food insecurity (child-headed, ultra-poor and labour-constrained households). In addition, a separate Presidential Initiative on Poverty and Hunger Reduction was launched on 17 June 2012, focusing on livelihoods in the agricultural sector, with separate budgets for a range of interventions, including the handing out of seeds and livestock (known as the "one family one cow" initiative) to poor rural households.

58. Several government institutions are involved in the implementation of social protection programmes, including the Ministry of Agriculture and Food Security (food aid); the Ministry of Local Government and Rural Development (public works programmes); and the Ministry of Gender, Children and Community Development and the Office of the President and Cabinet (targeted transfers). Furthermore, the Ministry of Economic Planning and Development coordinates the National Social Support Programme, which includes an interministerial social support steering committee and a social support technical committee.

59. The number of beneficiaries of the social protection programmes has been gradually increasing in recent years.[29] Still, national coverage remains limited, and there are significant disparities among regions and districts.

60. In 2010, an average of 14.8 per cent of the population benefited from school feeding programmes, implemented by the World Food Programme and non-governmental organizations in cooperation with the Ministry of Education, Science and Technology. Schools participating in such programmes have seen a significant reduction in dropout rates and improved child nutrition. In 9 of the country's 28 districts, however, less than 3 per cent of the school population was covered,[30] whereas 40 per cent or more participated in such programmes in the districts of Chiradzulu, Mulanje and Nsanje and in the urban centres of Mzuzu and Blantyre. These differences do not seem to correspond with a deliberate targeting of districts with a particularly high level of child malnutrition and school dropout. For instance, in the district of Nkhotakota, where no child benefited from school feeding programmes, the rates of primary education dropout and of stunting of children below the age of 5 are well above the national average.[31]

61. With regard to public works programmes, available data suggest that they are not always reaching the intended target group. These programmes are designed to be self-targeting, since they would only seem to be an attractive option to those in genuine need, who have run out of other options. Yet, data from the third Integrated Household Survey shows that significantly more people from the fourth highest consumption quintile (3.2 per cent) of the population had participated in a public works programme compared to those from the lowest consumption quintile (2 per cent).

62. In the village of Mzembera, Salima District, the Special Rapporteur met with beneficiaries of the country's main programme of targeted cash transfers, the Social Cash

[29] According to the Government, the proportion of the disadvantaged receiving conditional and unconditional cash transfer increased from 4 per cent in 2005 to 37 per cent in 2010. At the same time the Public Works Programme increased its coverage from 130,000 people in 2009 to 335,225 in 2010 (MGDS II, p. 35).

[30] The lowest extension of such programmes was in the districts of Nkhata Bay, Northern Region and Nkhotakota, Central Region (both 0.0 per cent) and Machinga, Southern Region (0.3 per cent).

[31] Malawi, *IHS 2010/2011*, pp. 38, 176 and 183. The primary education dropout rate in Nkhotakota (2.9 per cent) is more than double the national average (1.3 per cent) and the rate of moderate stunting of children below the age of 5 years (62.6 per cent) is significantly above the national average (48.1 per cent).

Transfer programme. The programme targets households that are both ultra poor and labour constrained. Starting as a pilot programme in Mchinji in 2006 with the support of the United Nations Children's Fund (UNICEF), and after evidence of positive impacts had been documented by an external evaluation,[32] it was extended to 8 of the country's 28 districts, reaching an estimated 26,000 households and 103,000 individuals. Beneficiary households receive a monthly cash transfer which is calculated on the basis of the number of people in the household (ranging from MK 1,000/US$ 2.75 per month for a one-person household to MK 2,400/US$ 6.60 for a household of four or more). As the Special Rapporteur learned from his conversations with beneficiaries, the small amounts received had made a significant contribution to improving livelihoods, allowing households to purchase food, farm inputs, school uniforms and other necessities.

63. Currently, 10 per cent of the programme's budget is provided by the Government and the rest by international donors. The Government intends to gradually scale up the scheme to cover the whole country. This will indeed be critical to reversing the trend of increasing rates of extreme poverty in rural areas. More broadly, moving towards the establishment of a comprehensive social protection system and a national social protection floor will be an important element of a national strategy to curb accelerated population growth, in a context where children currently constitute the main means of livelihood security for parents in their old age. Indeed, a comprehensive social protection system for the elderly, the chronically sick or those without another source of income is already urgently needed. As a recent study showed, children are increasingly failing to provide for the needs of the elderly owing to economic hardship and changing family ties. Moreover, HIV/AIDS has resulted in a high number of orphaned elderly, who lack the support of other family members, and of orphaned children being cared for by their grandparents or living in child-headed households.[33]

64. As also recognized in MGDS II, key challenges surround efforts to ensure access to basic social protection for those most vulnerable to poverty and food insecurity in Malawi. First, programmes are often ad hoc and uncoordinated, spread over multiple initiatives and government institutions, which calls for the establishment of "coherent and progressive social support synergies".[34] The 2012 National Social Support Policy seeks to address this problem and it will be important to ensure that the coordination mechanisms foreseen in this Policy become fully operational.

65. Second, current schemes are overly reliant on donor-funded, time-bound projects, which undermines their overall coherence and sustainability. One essential requirement to address this problem would be a greater contribution from the national budget towards the financing of social protection programmes.

66. Third, there is a need to better target social support programmes to ensure that they reach the intended beneficiaries/rights holders and to find innovative ways to minimize transaction costs and leakages. The system of decentralized targeting at the community level in which village heads play a major role, though cost-effective and relatively successful, could be improved by introducing further checks and balances to safeguard against favouritism and arbitrary exclusion.

67. More specifically, the Special Rapporteur would suggest that community-based targeting be strengthened by: (a) publishing and making available in local languages the

[32] Center for Global Health and Development, Boston University, and the Centre for Social Research, University of Malawi, "Economic impact report of the Mchinji Social Cash Transfer Pilot" (2009).

[33] Zifa Kazeze, "Social protection and ageing in Malawi", in *Population Ageing in Malawi: Understanding Challenges, Responding to Opportunities* (2008), p. 48.

[34] Malawi, MGDS II, p. 35.

guidelines and criteria for identifying beneficiaries; (b) providing for accessible grievance redress mechanisms against mismanagement and arbitrary allocation of benefits; (c) introducing a system of community score cards to allow for the tracking of inputs (for example vouchers, farm inputs) and ensure that members of the community are aware of their rights and entitlements; and (d) strengthening the oversight role of local committees, made up of community members, possibly building upon existing systems of village development committees and civil protection committees.

D. Women's right to adequate food

68. Among the ultra poor in Malawi, women face specific impediments to their enjoyment of the right to food. Given their traditional role in the family, women in most cases shoulder an unequal share of household responsibilities, such as taking care of the children, the elderly and the sick. They spend on average 1.2 hours a day on getting water and fetching firewood, adding to their time poverty.[35] Moreover, it is estimated that women provide 70 per cent of the agricultural workforce, yet they are unequal with men in decision-making and control over production resources and land. The same general pattern is found in all regions, irrespective of whether customary land ownership was governed by a matrilineal or patrilineal system.

69. In order to strengthen the protection of women's right to food, the Special Rapporteur underlines the importance of integrating a gender perspective into food security interventions and programmes:

(a) The specific constraints faced by women must be recognized. For example, women's caretaking responsibilities and time constraints should be borne in mind in the design of agricultural extension services or public works programmes;

(b) Women must be relieved from some of the burdens they shoulder, for instance through the prioritization of measures which would reduce the time spent on fetching water and firewood (for example providing access to electricity or boring wells);

(c) To achieve a more equal distribution of tasks within households, a transformation of existing gender-role divisions should be promoted. "Recipe days" organized in some communities have served to get men involved in household cooking and to sensitize them about maternal and child nutrition: they should be generalized across the country.

E. Prisoners' right to adequate food

70. The Special Rapporteur visited Maula Prison in Lilongwe to assess the situation of prisoners with regard to their right to adequate food in the light of a 2009 High Court ruling concerning problems of severe overcrowding and inadequate feeding in Malawian prisons. The ruling concerned a case brought by a prison inmate serving a 12-year sentence in Chichiri Prison on behalf all prisoners in Malawi against the Minister of Home Affairs and Internal Security and the Commissioner of Prisons. The complainant claimed that prison conditions amounted to torture and cruel, inhuman and degrading treatment. In particular, it was argued that feeding prisoners only one meal per day, consisting of maize meal (*nsima*) and peas or beans, was grossly inadequate. The High Court found that prison overcrowding amounted to inhuman and degrading treatment. It also found that the "minimum standards set by the [1955] Prisons Act have outlived their time and ought to be amended to raise those minimum standards to meet nutritional needs of the prisoners to address new health

[35] Malawi, *IHS 2010/2011*, p. 95.

challenges of inmates".[36] In 2012, the United Nations Human Rights Committee also expressed concern about "deplorable conditions of detention in [Malawian] prisons" (CCPR/C/MWI/CO/1, para. 13). The Special Rapporteur regrets in this regard the slow progress made in reforming the Prison Act.[37]

71. At Maula Prison, the Prison Service was only able to provide prisoners one daily meal consisting of maize meal (*nsima*) and beans or peas, due to budget constraints. At times, when food stocks and the budget ran out, the prison had to rely on a private provider to sell the prison maize meal on credit. According to the prisoners, there were days when they received no food at all, for example when there was no firewood available or provisions of maize flour had run out. Moreover, they explained that prisoners with HIV/AIDS and other chronic diseases did not receive any special treatment to meet their special dietary needs.

72. The Standard Minimum Rules for the Treatment of Prisoners provides, in rule 20, paragraph 1, that "every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served". While the Special Rapporteur appreciates the budget constraints faced by the Prison Service, he calls attention to the fact that this cannot justify violations of the right to adequate food and to be free from hunger or, as the Human Rights Committee has underlined, non-compliance with the Standard Minimum Rules for the Treatment of Prisoners.[38]

VII. Making maximum use of available resources

73. Malawi has committed itself to taking steps to the maximum of its available resources to progressively achieve the full realization of the right to adequate food (International Covenant on Economic, Social and Cultural Rights, art. 2). Beyond the adoption of the legislative and policy measures considered in the above sections, including optimizing the impact of policies and programmes by appropriate budget allocation, the Special Rapporteur considers the following two issues as vital to the realization of the right to adequate food in Malawi.

A. Illicit financial flows and the right to food

74. It is estimated that Malawi has lost over 10 per cent of GDP to illicit outflows over the period 1980–2009.[39] This reduces its ability to realize the right to food. Recognizing that "illicit capital flight undermines the capacity of State Parties to implement the African Charter on Human and Peoples' Rights and to attain the Millennium Development Goals", the African Commission on Human and Peoples' Rights has recently called upon States parties to the African Charter on Human and Peoples' Rights "to examine their national tax

[36] *Masangano* v. *Attorney General, Minister of Home Affairs and Internal Security and Commissioner of Prisons* (footnote 9 above), p. 45.

[37] A draft prison bill was tabled in 2003 and on the basis of this draft a new Prison Act is being drawn up by the Malawi Law Commission. See UPR Info, "Malawi: mid-term implementation assessment", p. 14. Available from www.upr-info.org/followup/assessments/session22/malawi/MIA-Malawi.pdf.

[38] See communication No. 458/1991, *Womah Mukong* v. *Cameroon*, Views adopted on 21 July 1994, para. 9.3.

[39] African Development Bank and Global Financial Integrity, *Illicit Financial Flows and the Problem of Net Resource Transfers from Africa: 1980–2009* (2013), p. 26.

laws and policies towards preventing illicit capital flight in Africa".[40] This recommendation will be especially relevant to Malawi, due to the expected growth of the extractive industry. The Special Rapporteur urges the Government of Malawi to swiftly implement the concrete recommendations suggested by the African Development Bank and Global Financial Integrity, including joining the Extractive Industries Transparency Initiative (EITI), and adopt legislation transforming EITI voluntary requirements into legal requirements, as has been done in Liberia and Nigeria.

B. Tax race to the bottom: the misguided quest for global competitiveness

75. Malawi offers a great range of tax incentives to domestic and foreign companies. Mining companies are exempt from customs and excise duties, as well as from value added tax (VAT) on mining machinery, plant and equipment. They can also sign special deals on the rate of royalties owed to the Government. Companies operating in export processing zones pay no corporate tax, no withholding tax on dividends, no VAT and no duty on equipment, machinery and raw materials.[41] One study considering only two companies found that Malawi lost MK 86.4 billion (US$ 217 million) from tax incentives granted to those companies between 2008 and 2012, or an average of MK 17.28 billion (US$ 43 million) per year.[42] While the accuracy of this estimate has been contested, the Special Rapporteur concluded from meetings held during his visit that revenue losses are indeed very significant. To put the sums into perspective, the loss in revenues from the incentives granted to those two companies alone represent over 60 per cent of the costs of four key safety net programmes in Malawi which together cost MK 27.5 billion in the 2012/13 budget: the Intensive Public Works Programme, the School Feeding Programme (targeted towards 980,000 pupils in primary schools), the Schools Bursaries Programme (targeting 16,480 needy students) and the Social Cash Transfer programme (which is expected to reach over 30,000 households across the country).[43]

76. Despite increasing awareness of the negative consequences of the global race to the bottom in taxation regimes, Malawi has recently committed to "fast track the doing business reforms and review taxation regimes in order to maximise incentives to investment in the growth clusters under the National Export Strategy and to support agricultural mechanization".[44] It is unclear how this is reconciled with the Government's commitment to "strengthen revenue administration and broaden the tax base" and to "improve revenue collection".[45]

77. The Special Rapporteur heard from government officials that they should be better supported in negotiating with foreign companies. He is convinced that, unless combined with comprehensive enhancement and optimization of tax revenue in Malawi, current macroeconomic reforms may not translate into positive impacts on the realization of the right to food.

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[40] Resolution adopted by the Commission at its 53rd ordinary session, 23 April 2013.

[41] See "Investment incentives", www.malawiembassy.org/en/invest/incentives.html. See also Norwegian Church Aid and Catholic Commission for Justice and Peace, *Malawi's Mining Opportunity: Increasing Revenues, Improving Legislation* (2013).

[42] Norwegian Church Aid and Catholic Commission for Justice and Peace, *Malawi's Mining Opportunity*, p. 2.

[43] Malawi Ministry of Finance, 2012/13 Budget Statement, para. 106.

[44] Country Cooperation Framework to support the New Alliance for Food Security and Nutrition in Malawi, objective 1.5, p. 6.

[45] Malawi, Letter of Intent (footnote 3 above), para. 31.

VIII. A national food and nutrition security framework law

78. Malawi has a wide range of well-formulated and well-intended policies and strategies to accelerate progress in the realization of the right to adequate food. What is missing, however, is a more solid framework to bring together and build synergies among the multiple policies, strategies and programmes. Such a framework could ideally be grounded in law, through a national food and nutrition security/right to food framework law. The Special Rapporteur was encouraged by the support expressed by interlocutors within the Government and civil society for such a framework law. Initial steps have already been taken through discussions on a draft food security bill prepared in consultation with civil society organizations involved in the National Right to Food Network. The Special Rapporteur encourages the Government to revive this proposal in consultation with relevant stakeholders, including parliamentary committees, the Malawi Law Commission, the Malawi Human Rights Commission, civil society organizations, farmers' associations and the private sector.

79. The framework law could build upon the various coordination mechanisms referred to in recent policies and strategies in the area of food security and nutrition, and help address the problems encountered in making these coordination mechanisms fully operational. The framework law would establish one robust institutional mechanism to promote coordination and synergies across different sectors. In this regard, it could draw inspiration from similar framework laws in other countries (see A/68/288).

80. Based on experience from other countries, a framework law presents the following benefits: (a) institutionalization of a coherent and integrated approach, through the creation of an independent council formed by relevant government ministries and institutions and members of civil society, associations of food producers and the private sector, which will provide advice to the Government in matters related to food and nutrition security; (b) grounding of national policies and programmes in a society-wide consensus, increasing their survival in the face of changes in Governments; (c) predictability and ring fencing of resources for food and nutrition programmes, possibly through the establishment of a national fund; (d) strengthened accountability and institutional oversight of food and nutrition security programmes, including on the way information is collected and programmes assessed, increasing transparency and safeguards against the use of political criteria in the targeting of programmes. In this regard, the Malawi Human Rights Commission could usefully be given a specific mandate to receive complaints regarding the right to food, including cases concerning the arbitrary exclusion from food and nutrition security programmes.

81. A national framework law could help the Government ensure that policies and programmes are effectively geared towards addressing the actual needs of beneficiaries/rights holders, in line with the rights-based approach adopted in recent strategy papers aimed at improving "accountability of service providers to rights holders".[46] To achieve this, a transformation of mindsets will also be required, moving towards an understanding of food security and social support interventions in terms of human rights rather than handouts.

82. The Special Rapporteur suggests that consideration be given to establishing a trust fund, which could be overseen by a national food security council or a similar body which would be created under a national food security act. Such a fund could be gradually financed by revenues from investments made in the country and would finance policies

[46] Malawi, *Agriculture Sector Gender, HIV and AIDS Strategy 2012-2017*, outcome 3.3.4, pp. 44 and 84.

aimed at improving food security and nutrition, including through school feeding, social protection, agricultural diversification and sustainable agricultural practices.

IX. Recommendations

83. **The Special Rapporteur recommends that the Government:**

(a) Establish a framework law on the right to food, building on the draft food security bill, through a consultative process with relevant stakeholders;

(b) Strengthen the integration of a gender perspective into food and nutrition security strategies and programmes;

(c) Improve mechanisms and methodologies for the collection of adequately disaggregated data on poverty and food insecurity, with a view to improving the accuracy and reliability of different national surveys;

(d) Review and reform current agricultural input support programmes, in particular the Farm Input Subsidy Programme (FISP), aimed at supporting smallholder farmers and addressing food insecurity, bearing in mind the five transformations outlined in the present report concerning the need to:

(i) Recognize the links between agriculture, nutrition and health, moving beyond the current "maize economy";

(ii) Initiate concerted national efforts to support farmers in improving soil fertility, to promote a "brown revolution" to improve soil fertility leading to an exit strategy from FISP, with significant multiplier effects in terms of productivity, nutrition and employment;

(iii) Promote a "blue revolution" to support farmers in improving water management, and scale up sustainable irrigation methods;

(iv) Scale up agricultural extension services, ensuring that they reach the most vulnerable farmers, affirmatively reach out to women farmers and support the necessary transformations of agricultural production;

(v) Carefully pace the shift towards greater diversification of the economy, including the promotion of large-scale commercial farms, bearing in mind the importance of creating employment opportunities both in agriculture and in other sectors;

(e) Reform the national minimum wage to ensure for all workers, including casual/seasonal workers, a living wage, in line with international human rights law;

(f) Ensure that collective bargaining and the right to organize are respected in all sectors;

(g) Strengthen oversight of compliance with labour legislation, including through an adequately staffed and empowered labour inspectorate;

(h) Strengthen the protection of vulnerable workers, including through specific legislation on tenant workers, and step up efforts to combat child labour in agriculture, including that of the high number of children currently employed in tobacco leaf picking;

(i) Ensure that the legal framework for the governance of land, currently under consideration, provides adequate protection against land grabbing and forced displacement, and give specific attention to the specific obstacles faced by women;

(j) Develop a legal framework to regulate contract farming to ensure that it complies with the requirements of the right to adequate food;

(k) Scale up school feeding programmes to achieve full national coverage, and source food for such programmes locally to create synergies with efforts to promote smallholder food production;

(l) Improve the targeting of public works programmes and identify synergies with rural development objectives, including to relieve women from the specific burdens they shoulder;

(m) Scale up the social protection scheme of cash transfers to move away from donor-funded and time-bound projects towards a comprehensive system providing for a standing national social protection floor, while strengthening current mechanisms of community-based targeting;

(n) Take immediate measures to ensure access to adequate food in prisons, including by raising current minimum standards in the new prison act being drawn up;

(o) Maximize available resources to progressively achieve the full realization of the right to food through measures to curb illicit financial flows, including by joining the Extractive Industries Transparency Initiative, and to ensure adequate taxation of companies operating in the country.